

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GERARDO and MARIA GARCIA

V.

MITSUBISHI MOTORS CREDIT OF
AMERICA, INC.

HSBC AUTO FINANCE, INC. fka
HOUSEHOLD AUTOMOTIVE FINANCE
CORPORATION and
CAVALRY PORTFOLIO SERVICES, LLC

§
§
§
§
§
§
§
§
§

C.A. NO. _____

JURY DEMANDED

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441

Please take notice that Defendant, **CAVALRY PORTFOLIO SERVICES, LLC**, hereby removes to Federal Court the State Court action described below.

1. On August 18, 2009, a civil action was commenced in the County Court of Law Number 4 of Harris County, Texas, Cause No. 945638; *Gerardo and Maria Garcia V. Mitsubishi Motors Credit of America, Inc., HSBC Auto Finance, Inc. Fka Household Automotive Finance Corporation and Cavalry Portfolio Services, LLC*, in the County Civil Court of Law Number 4 of Harris County, Texas; see a copy of Plaintiffs' Original Petition attached hereto as "**Exhibit A.**"

2. Service of summons and complaint was made on Defendant Cavalry Portfolio Services, LLC on September 8, 2009 by serving its registered agent for service, CT Corporation System. A copy of the citations are attached hereto as "**Exhibit B.**" Accordingly, Defendant Cavalry Portfolio Services, LLC has filed this its notice of removal within the 30-day time period required by 28 U.S.C. §1332 and §1446(b).

3. This is a civil action for damages allegedly sustained by Plaintiff as a result of Defendant's alleged violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA") and the Fair Credit Reporting Act, 15 USC §1681s(2) *et seq.* ("FCRA"). See Plaintiffs' Original Petition attached hereto.

4. Defendant has filed an Original Answer in Cause No. 945638; *Gerardo and Maria Garcia V. Mitsubishi Motors Credit of America, Inc., HSBC Auto Finance, Inc. Fka Household Automotive Finance Corporation and Cavalry Portfolio Services, LLC*, in the County Civil Court of Law Number 4 of Harris County, Texas, and which is attached hereto as "**Exhibit C.**"

5. This cause is removable based on federal question jurisdiction. Plaintiffs allege that Defendant violated a federal statutes, the FDCPA and FCRA. Therefore, this Court has jurisdiction pursuant to 28 U.S.C. §1441(b) because Plaintiffs have asserted claims arising under the laws of the United States.

6. In accordance with 28 U.S.C. §1446(d), Defendant will file a copy of this Notice of Removal with the County Court at Law Number 4, Harris County, Texas and will serve a copy of the same upon counsel for Plaintiffs.

7. Defendant requests trial by jury.

8. An index of all records and proceedings from the State Court, including each document filed in the State Court action, is being filed with this Court contemporaneously with this Notice of Removal.

WHEREFORE, CAVALRY PORTFOLIO SERVICES, LLC, gives notice that Cause No. 945638; *Gerardo and Maria Garcia V. Mitsubishi Motors Credit of America, Inc., HSBC*

Auto Finance, Inc. Fka Household Automotive Finance Corporation and Cavalry Portfolio Services, LLC, in the County Civil Court of Law Number 4 of Harris County, Texas, has been removed from the State Court to the United States District Court for the Southern District of Texas, Houston Division, and Defendant prays for such other and further relief to which they may show themselves justly entitled.

Dated: **October 5, 2009**

Respectfully submitted,

HANSZEN ■ LAPORTE, LLP

By: /s/ Amy L. Mitchell
Amy L. Mitchell, SBN: 12560600
Fed. I.D. No.: 17005
4309 Yoakum Blvd.
Houston, Texas 77006
(713) 522-9444: Telephone
(713) 524-2580: Facsimile

**ATTORNEY FOR DEFENDANT CAVALRY
PORTFOLIO SERVICES, LLC**

CERTIFICATE OF SERVICE

I, Amy L. Mitchell, hereby certify that on the 5th day of October, 2009, the Notice of Removal of Action Under 28 U.S.C. § 1441 is being forwarded to all parties and counsel herein by certified mail, return receipt requested, as follows:

Mark L. Ascherman
3730 Kirby Drive #520
Houston Texas 77098
(713) 942-0808
(713) 942-0449 Fax
Attorney for Plaintiffs Gerardo and Maria Garcia

Via facsimile

Robert J. Rosenbach
Clemens & Spencer
112 East Pecan Street, Suite 1300
San Antonio, Texas 78205-1598
(210) 227-7121
(210) 227-0732 Fax

Via facsimile

/s/ Amy L. Mitchell
Amy L. Mitchell

CERTIFICATE OF CONFERENCE

I, Amy L. Mitchell, hereby certify that I have conferred with Robert J. Rosenbach, Counsel for Mitsubishi Motors Credit of America, Inc., and that he has agreed to this Removal.

/s/ Amy L. Mitchell
Amy L. Mitchell

CERTIFICATE OF SERVICE

I, Amy L. Mitchell, hereby certify that on the 5th day of October, 2009, the Notice of Removal of Action Under 28 U.S.C. § 1441 is being forwarded to all parties and counsel herein by certified mail, return receipt requested, as follows:

Mark L. Ascherman
3730 Kirby Drive #520
Houston Texas 77098
(713) 942-0808
(713) 942-0449 Fax
Attorney for Plaintiffs Gerardo and Maria Garcia

Via facsimile

Robert J. Rosenbach
Clemens & Spencer
112 East Pecan Street, Suite 1300
San Antonio, Texas 78205-1598
(210) 227-7121
(210) 227-0732 Fax

Via facsimile

Attorney for Defendant, Mitsubishi Motors Credit of America, Inc.

/s/ Amy L. Mitchell
Amy L. Mitchell